

AMENDED IN SENATE APRIL 27, 2000  
AMENDED IN SENATE FEBRUARY 15, 2000  
AMENDED IN SENATE SEPTEMBER 10, 1999  
AMENDED IN SENATE AUGUST 23, 1999  
AMENDED IN SENATE JUNE 28, 1999  
AMENDED IN ASSEMBLY APRIL 14, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1496**

**Introduced by Assembly Member Olberg**

February 26, 1999

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An act to amend Sections 4034, 4130, 4131, 4132, 4133, 4134, 4135, 4136, 4137, 4312, 4331, 4400, 19051, 19055, and 19059.5 of, and to add Section 4034.1 to, the Business and Professions Code, relating to home medical equipment services providers, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1496, as amended, Olberg. Home medical equipment services providers.

Existing law, the Pharmacy Law, provides for the licensure and regulation of medical device retailers. A knowing violation of the provisions of the Pharmacy Law is a crime punishable as a misdemeanor or an infraction, as specified.

This bill would instead provide for similar licensure and regulation of home medical equipment services providers, as defined.

The bill would provide for exemption from licensure for enumerated entities.

Existing law requires certain written policies and procedures to include emergency services.

The bill would additionally require access to emergency services 24 hours per day, 365 days per year to be available for equipment maintenance or replacement if equipment malfunction may threaten the health of a patient.

The bill would also exempt a home medical equipment services provider from specified licensing provisions related to home furnishings.

By expanding the scope of an existing crime, the bill would impose a state-mandated local program.

By creating a new source of funds deposited into the Pharmacy Board Contingent Fund, a continuously appropriated fund, the bill would make an appropriation.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 4034 of the Business and  
2 Professions Code is amended to read:  
3 4034. (a) “Home medical equipment services  
4 provider” is an area, place, or premises, other than a  
5 pharmacy, in and from which dangerous devices if  
6 authorized, home medical equipment, and home medical  
7 equipment services are sold, fitted, or dispensed pursuant  
8 to prescription. “Home medical equipment services  
9 provider” includes, but is not limited to, any area, place,  
10 or premises described in a license issued by the board in



1 which dangerous devices, if authorized, home medical  
2 equipment, and home medical equipment services are  
3 stored, possessed, prepared, manufactured, or  
4 repackaged, and from which the dangerous devices, if  
5 authorized, home medical equipment, and home medical  
6 equipment services are furnished, sold, or dispensed at  
7 retail.

8 (b) “Home medical equipment services provider”  
9 shall not include any area in a facility licensed by the State  
10 Department of Health Services where floor supplies,  
11 ward supplies, operating room supplies, or emergency  
12 room supplies of dangerous devices are stored or  
13 possessed solely for treatment of patients registered for  
14 treatment in the facility or for treatment of patients  
15 receiving emergency care in the facility.

16 (c) “Home medical equipment services provider”  
17 shall not include any area of a home health agency  
18 licensed under Chapter 8 (commencing with Section  
19 1725) of, or a hospice licensed under Chapter 8.5  
20 (commencing with Section 1745) of, Division 2 of the  
21 Health and Safety Code, where the supplies specified in  
22 subdivision (c) of Section 4057 are stored or possessed  
23 solely for treatment of patients by a home health agency  
24 or licensed hospice, as long as all dangerous drugs or  
25 devices are furnished to these patients only upon the  
26 prescription or order of a physician, dentist, or podiatrist.

27 SEC. 2. Section 4034.1 is added to the Business and  
28 Professions Code, to read:

29 4034.1. In addition to the definitions in Section 4034,  
30 all of the following definitions shall apply:

31 (a) “Home medical equipment services provider”  
32 means an individual, entity, or corporation engaged in  
33 the business of providing home medical equipment  
34 services, directly or through contractual arrangement, to  
35 an unrelated sick or disabled individual where that  
36 individual resides.

37 (b) “Home medical equipment services” means the  
38 delivery, installation, maintenance, replacement of, or  
39 instruction in the use of, home medical equipment used

1 by a sick or disabled individual to allow the individual to  
2 be maintained in a residence.

3 (c) “Home medical equipment” means  
4 technologically sophisticated medical devices usable in a  
5 home care setting, including, but not limited to, all of the  
6 following:

7 (1) Oxygen and oxygen delivery systems.

8 (2) Ventilators.

9 (3) Continuous Positive Airway Pressure devices  
10 (CPAP).

11 (4) Respiratory disease management services.

12 (5) Hospital beds and commodes.

13 (6) Electronic and computer driven wheelchairs and  
14 seating systems.

15 (7) Apnea monitors.

16 (8) Low air loss continuous pressure management  
17 devices.

18 (9) Transcutaneous Electrical Nerve Stimulator  
19 (TENS) units.

20 (10) Dangerous devices, as defined in Section 4022.

21 (11) Distribution of medical gases to end users for  
22 human consumption.

23 (12) Disposable medical supplies.

24 (13) Any other similar equipment as defined in  
25 regulations adopted by the board.

26 (d) The term “home medical equipment” does not  
27 include any of the following:

28 (1) Medical equipment used or dispensed in the  
29 normal course of treating patients by hospitals and  
30 nursing facilities, other than medical equipment  
31 delivered or dispensed by a separate unit or subsidiary  
32 corporation of a hospital or nursing facility or agency that  
33 is in the business of delivering home medical equipment  
34 to an individual’s residence.

35 (2) ~~Prosthetics and orthotics~~ *Prosthetics, orthotics,*  
36 *and automated external defibrillators (AEDs).*

37 (3) Canes, crutches, walkers, and bathtub grab bars.

38 (4) Medical equipment provided through a  
39 physician’s office incident to a physician’s service.



1 (5) Equipment provided by a pharmacist that is used  
2 to administer drugs or medicine that can be dispensed  
3 only by a pharmacist.

4 (6) Enteral and parenteral equipment provided by a  
5 pharmacist.

6 SEC. 3. Section 4130 of the Business and Professions  
7 Code is amended to read:

8 4130. (a) No person shall conduct a home medical  
9 equipment services provider business in the State of  
10 California unless he or she has obtained a license from the  
11 board. A license shall be required for each home medical  
12 equipment services provider owned or operated by a  
13 specific person. A separate license shall be required for  
14 each of the premises of any person operating a home  
15 medical equipment services provider in more than one  
16 location. The license shall be renewed annually and shall  
17 not be transferable.

18 (b) A warehouse owned by a home medical  
19 equipment services provider, the primary purpose of  
20 which is storage, not dispensing of dangerous devices to  
21 patients, shall be licensed at a fee one-half of that for a  
22 home medical equipment services provider. There shall  
23 be no separate or additional license fee for warehouse  
24 premises owned by a home medical equipment services  
25 provider that are physically connected to the retail  
26 premises or that share common access.

27 (c) The board may, at its discretion, issue a temporary  
28 license, when the ownership of a home medical  
29 equipment services provider is transferred from one  
30 person to another, upon any conditions and for the  
31 periods of time as the board determines to be in the public  
32 interest. A temporary license fee shall be established by  
33 the board at an amount not to exceed the annual fee for  
34 renewal of a license to conduct a home medical  
35 equipment services provider.

36 (d) Notwithstanding any other provision of law, a  
37 home medical equipment services provider may furnish  
38 a prescription device to a licensed health care facility for  
39 storage in a secured emergency pharmaceutical supplies  
40 container maintained within the facility in accordance

1 with facility regulations of the State Department of  
2 Health Services set forth in Title 22 of the California Code  
3 of Regulations.

4 (e) The licensure requirements of this section shall not  
5 apply to the following entities or practitioners, unless the  
6 entities or practitioners furnish home medical equipment  
7 services through a separate entity, including, but not  
8 limited to, a corporate entity, division, or other business  
9 entity:

10 (1) Home health agencies that do not have a Part B  
11 Medicare supplier number.

12 (2) Hospitals, excluding providers of home medical  
13 equipment that are owned or related to a hospital.

14 (3) Manufacturers and wholesale distributors, when  
15 not selling directly to the patient.

16 (4) Health care practitioners legally eligible to  
17 prescribe or order home medical equipment, or who use  
18 home medical equipment, or who use home medical  
19 equipment to treat their patients, including, but not  
20 limited to, physicians, nurses, physical therapists,  
21 respiratory therapists, occupational therapists, speech  
22 pathologists, optometrists, chiropractors, and podiatrists.

23 (5) Pharmacists and pharmacies. Pharmacies that sell  
24 or rent home medical equipment shall be governed by  
25 other provisions of this chapter and any rules and  
26 regulations adopted under this chapter.

27 (6) Hospice programs.

28 (7) Nursing homes.

29 (8) Veterinarians.

30 (9) Dentists.

31 (10) Emergency medical services.

32 SEC. 4. Section 4131 of the Business and Professions  
33 Code is amended to read:

34 4131. (a) The following minimum standards shall  
35 apply to all home medical equipment services providers  
36 licensed by the board:

37 (1) Each licensee shall store dangerous devices in a  
38 secure, lockable area.

39 (2) Each licensee shall maintain the premises, fixtures,  
40 and equipment in a clean and orderly condition.

(3) Each licensee shall maintain the premises in a dry, well-ventilated condition, free from rodents and insects, and with adequate lighting.

(b) The board may, by regulation, impose any other minimum standards pertaining to the acquisition, storage, and maintenance of dangerous devices or other goods, or to the maintenance or condition of the licensed premises of any home medical equipment services providers as the board determines are reasonably necessary.

SEC. 5. Section 4132 of the Business and Professions Code is amended to read:

4132. (a) Each home medical equipment services provider shall have written policies and procedures related to home medical equipment services provider handling and, if authorized by the board pursuant to Section 4133, the dispensing of dangerous devices. Those written policies and procedures shall include, but not be limited to:

(1) Training of staff, patients, and caregivers.

(2) Cleaning, storage, and maintenance of home medical equipment.

(3) Emergency services. If equipment malfunction may threaten a patient's health, access to emergency services 24 hours per day, 365 days per year shall be available for equipment maintenance or replacement.

(4) Recordkeeping requirements.

(5) Storage and security requirements.

(6) Quality assurance.

(b) The home medical equipment services provider shall make consultation available to the patient or primary caregiver about proper use of devices and related supplies furnished by the home medical equipment services provider. The home medical equipment services provider shall notify the patient or primary caregiver that consultation is available.

(c) Each licensee shall ensure all personnel of the home medical equipment services provider who engage in the taking of orders for, the selling of, or the fitting of dangerous devices, if authorized by the board pursuant to

1 Section 4133, shall have training and demonstrate initial  
2 and continuing competence in the order-taking, fitting,  
3 and sale of dangerous devices that the home medical  
4 equipment services provider furnishes pursuant to  
5 Section 4133. The pharmacist-in-charge or exemptee shall  
6 be jointly responsible with the owner or owners of the  
7 home medical equipment services provider for  
8 compliance with the requirement.

9 (d) Each licensee shall prepare and maintain records  
10 of training and demonstrated competence for each  
11 individual employed or retained by the licensee. The  
12 records shall be maintained for three years from and after  
13 the last date of employment.

14 (e) Each licensee shall have an ongoing, documented  
15 quality assurance program that includes, but is not  
16 limited to, the following:

17 (1) Monitoring personnel performance.

18 (2) Storage, maintenance, and dispensing of  
19 dangerous devices.

20 (f) The records and documents specified in  
21 subdivisions (a) and (e) shall be maintained for three  
22 years from the date of making. The records and  
23 documents in subdivisions (a), (d), and (e), shall be, at  
24 all times during business hours, open to inspection by  
25 authorized officers of the law.

26 SEC. 6. Section 4133 of the Business and Professions  
27 Code is amended to read:

28 4133. Section 4051 shall not prohibit a home medical  
29 equipment services provider from selling or dispensing  
30 dangerous devices if the board finds that sufficient  
31 qualified supervision is employed by the home medical  
32 equipment services provider to adequately safeguard and  
33 protect the public health. Each person applying for an  
34 exemption shall meet the following requirements to  
35 obtain and maintain that exemption:

36 (a) The home medical equipment services provider  
37 shall be in charge of a pharmacist or an exempt person  
38 who has taken and passed an examination administered  
39 by the board and whose certificate of exemption is  
40 currently valid.



1 (b) The pharmacist or exempt person shall be on the  
2 premises at all times dangerous devices are available for  
3 sale or fitting unless dangerous devices are stored  
4 separately from other merchandise and are under the  
5 exclusive control of the pharmacist or exemptee. A  
6 pharmacist or an exemptee need not be present in the  
7 warehouse facility of a home medical equipment services  
8 provider unless the board establishes that requirement by  
9 regulation based upon the need to protect the public.

10 (c) The board may require an exempt person to  
11 complete a designated number of hours of coursework in  
12 board-approved courses of home health education as a  
13 condition in connection with any disciplinary action  
14 taken against the exempt person.

15 (d) Each premises maintained by a home medical  
16 equipment services provider shall have a license issued by  
17 the board and shall have a pharmacist or exempt person  
18 on the premises if dangerous devices are furnished, sold,  
19 or dispensed.

20 (e) A home medical equipment services provider may  
21 establish locked storage (a lock box or locked area) for  
22 emergency or after working hours furnishing of  
23 dangerous devices. Locked storage may be installed or  
24 placed in a service vehicle of the home medical  
25 equipment services provider for emergency or after  
26 hours service to patients having prescriptions for  
27 dangerous devices.

28 (f) The board may, by regulation, authorize a  
29 pharmacist or exempt person to direct an employee of the  
30 home medical equipment services provider who operates  
31 the service vehicle equipped with locked storage  
32 described in subdivision (e) to deliver a dangerous device  
33 from the locked storage to patients having prescriptions  
34 for dangerous devices. These regulations shall establish  
35 inventory requirements for the locked storage by a  
36 pharmacist or exempt person to take place shortly after  
37 a dangerous device has been delivered from the locked  
38 storage to a patient.

39 SEC. 7. Section 4134 of the Business and Professions  
40 Code is amended to read:

1 4134. (a) No person other than a pharmacist, an  
2 intern pharmacist, an exempt person, as specified in  
3 Section 4133, or an authorized officer of the law or a  
4 person authorized to prescribe, shall be permitted in that  
5 area, place, or premises described in the license issued by  
6 the board wherein dangerous devices as therein defined  
7 are stored, possessed, prepared, manufactured, or  
8 repacked, except that a pharmacist or exemptee shall be  
9 responsible for any individual who enters the home  
10 medical equipment services provider for the purposes of  
11 receiving fitting or consultation from the pharmacist or  
12 exemptee or any person performing clerical, inventory  
13 control, housekeeping, delivery, maintenance, or similar  
14 functions relating to the home medical equipment  
15 services provider. The pharmacist or exemptee shall  
16 remain present in the home medical equipment services  
17 provider any time an individual is present who is seeking  
18 a fitting or consultation. However, an exemptee need not  
19 be present on the premises of a home medical equipment  
20 services provider at all times of operation and need not  
21 be present in a warehouse facility owned by a home  
22 medical equipment services provider unless the board  
23 establishes that requirement by regulation based upon  
24 the need to protect the public. The exemptee need not  
25 be present if the dangerous devices are stored in a secure  
26 locked area, under the exclusive control of the exemptee,  
27 and unavailable for dispensing. This subdivision shall  
28 apply only to dangerous devices, as defined in Section  
29 4022.

30 (b) A “warehouse” as used in this section, is a facility  
31 owned by a home medical equipment services provider  
32 that is used for storage only. There shall be no fitting,  
33 display, or sales at the location. A pharmacist or exemptee  
34 shall be designated as “in charge” of a warehouse but  
35 need not be present during operation. The pharmacist or  
36 exemptee may permit others to possess a key to the  
37 warehouse.

38 (c) Notwithstanding the remainder of this section, a  
39 home medical equipment services provider may establish  
40 a locked facility, meeting the requirements of Section

1 4133, for furnishing dangerous devices to patients having  
2 prescriptions for dangerous devices in emergencies or  
3 after working hours.

4 (d) The board may by regulation establish reasonable  
5 security measures consistent with this section in order to  
6 prevent unauthorized persons from gaining access to the  
7 area, place, or premises, or to the dangerous devices  
8 therein.

9 (e) The board may by regulation establish a list of  
10 those dangerous devices that may be maintained,  
11 dispensed, sold, or furnished only by a pharmacist in a  
12 pharmacy. In establishing or modifying that list, the  
13 board shall consider factors, including, but not limited to:

14 (1) The potential for abuse or spread of illness.

15 (2) The danger to the public if the device is not so  
16 restricted.

17 (3) The potential danger to minors if the device is not  
18 so restricted.

19 (f) The board may, by regulation, establish labeling  
20 requirements for dangerous devices sold, fitted, or  
21 dispensed by a home medical equipment services  
22 provider as it deems necessary for the protection of the  
23 public.

24 SEC. 8. Section 4135 of the Business and Professions  
25 Code is amended to read:

26 4135. Home medical equipment for rental purposes  
27 shall, at all times while under control of the home medical  
28 equipment services provider, be maintained in a clean  
29 and sanitary condition and in good working order,  
30 following, where available, manufacturer specifications.

31 SEC. 9. Section 4136 of the Business and Professions  
32 Code is amended to read:

33 4136. (a) A nonresident home medical equipment  
34 services provider shall not sell or distribute dangerous  
35 devices in this state through any person or media other  
36 than a wholesaler who is licensed pursuant to this chapter  
37 without registering as a nonresident home medical  
38 equipment services provider.

39 (b) Applications for a nonresident home medical  
40 equipment services provider registration shall be made

1 on a form furnished by the board. The board may require  
2 any information it deems reasonably necessary to carry  
3 out the purposes of this section.

4 (c) The Legislature, by enacting this section, does not  
5 intend a license issued to any nonresident home medical  
6 equipment services provider pursuant to this section to  
7 change or affect the tax liability imposed by Chapter 3  
8 (commencing with Section 23501) of Part 11 of Division  
9 2 of the Revenue and Taxation Code on any nonresident  
10 home medical equipment services provider.

11 (d) The Legislature, by enacting this section, does not  
12 intend a registration issued to any nonresident home  
13 medical equipment services provider pursuant to this  
14 section to serve as any evidence that the nonresident  
15 home medical equipment services provider is doing  
16 business within this state.

17 SEC. 10. Section 4137 of the Business and Professions  
18 Code is amended to read:

19 4137. When, in the opinion of the board, a high  
20 standard of patient safety, consistent with good patient  
21 care, can be provided by the licensure of a home medical  
22 equipment services provider that does not meet all of the  
23 requirements for licensure as a home medical equipment  
24 services provider, the board may waive any licensing  
25 requirements.

26 SEC. 11. Section 4312 of the Business and Professions  
27 Code is amended to read:

28 4312. (a) The board may void the license of a  
29 wholesaler, pharmacy, home medical equipment services  
30 provider, or veterinary food-animal drug retailer if the  
31 licensed premises remains closed, as defined in  
32 subdivision (e), other than by order of the board. For  
33 good cause shown, the board may void a license after a  
34 shorter period of closure. To void a license pursuant to  
35 this subdivision, the board shall make a diligent, good  
36 faith effort to give notice by personal service on the  
37 licensee. If no written objection is received within 10 days  
38 after personal service is made or a diligent, good faith  
39 effort to give notice by personal service on the licensee  
40 has failed, the board may void the license without the

1 necessity of a hearing. If the licensee files a written  
2 objection, the board shall file an accusation based on the  
3 licensee remaining closed. Proceedings shall be  
4 conducted in accordance with Chapter 5 (commencing  
5 with Section 11500) of Part 1 of Division 3 of Title 2 of the  
6 Government Code, and the board shall have all the  
7 powers granted in that chapter.

8 (b) In the event that the license of a wholesaler,  
9 pharmacy, home medical equipment services provider,  
10 or veterinary food-animal drug retailer is voided  
11 pursuant to subdivision (a) or revoked pursuant to  
12 Article 19 (commencing with Section 4300), or a  
13 wholesaler, pharmacy, home medical equipment services  
14 provider, or veterinary food-animal drug retailer, notifies  
15 the board of its intent to remain closed or to discontinue  
16 business, the licensee shall, within 10 days thereafter,  
17 arrange for the transfer of all dangerous drugs and  
18 controlled substances or dangerous devices to another  
19 licensee authorized to possess the dangerous drugs and  
20 controlled substances or dangerous devices. The licensee  
21 transferring the dangerous drugs and controlled  
22 substances or dangerous devices shall immediately  
23 confirm in writing to the board that the transfer has taken  
24 place.

25 (c) If a wholesaler, pharmacy, home medical  
26 equipment services provider, or veterinary food-animal  
27 drug retailer fails to comply with subdivision (b), the  
28 board may seek and obtain an order from the superior  
29 court in the county in which the wholesaler, pharmacy,  
30 home medical equipment services provider, or  
31 veterinary food-animal drug retailer is located,  
32 authorizing the board to enter the wholesaler, pharmacy,  
33 home medical equipment services provider, or  
34 veterinary food-animal drug retailer and inventory and  
35 store, transfer, sell, or arrange for the sale of, all dangerous  
36 drugs and controlled substances and dangerous devices  
37 found in the wholesaler, pharmacy, home medical  
38 equipment services provider, or veterinary food-animal  
39 drug retailer.

1 (d) In the event that the board sells or arranges for the  
2 sale of any dangerous drugs, controlled substances, or  
3 dangerous devices pursuant to subdivision (c), the board  
4 may retain from the proceeds of the sale an amount equal  
5 to the cost to the board of obtaining and enforcing an  
6 order issued pursuant to subdivision (c), including the  
7 cost of disposing of the dangerous drugs, controlled  
8 substances, or dangerous devices. The remaining  
9 proceeds, if any, shall be returned to the licensee from  
10 whose premises the dangerous drugs or controlled  
11 substances or dangerous devices were removed.

12 (1) The licensee shall be notified of his or her right to  
13 the remaining proceeds by personal service or by  
14 certified mail, postage prepaid.

15 (2) Where a statute or regulation requires the licensee  
16 to file with the board his or her address, and any change  
17 of address, the notice required by this subdivision may be  
18 sent by certified mail, postage prepaid, to the latest  
19 address on file with the board and service of notice in this  
20 manner shall be deemed completed on the 10th day after  
21 the mailing.

22 (3) If the licensee is notified as provided in this  
23 subdivision, and the licensee fails to contact the board for  
24 the remaining proceeds within 30 calendar days after  
25 personal service has been made or service by certified  
26 mail, postage prepaid, is deemed completed, the  
27 remaining proceeds shall be deposited by the board into  
28 the Pharmacy Board Contingent Fund. These deposits  
29 shall be deemed to have been received pursuant to  
30 Chapter 7 (commencing with Section 1500) of Title 10 of  
31 Part 3 of the Code of Civil Procedure and shall be subject  
32 to claim or other disposition as provided in that chapter.

33 (e) For the purposes of this section, “closed” means  
34 not engaged in the ordinary activity for which a license  
35 has been issued for at least one day each calendar week  
36 during any 120-day period.

37 (f) Nothing in this section shall be construed as  
38 requiring a pharmacy to be open seven days a week.

39 SEC. 12. Section 4331 of the Business and Professions  
40 Code is amended to read:

1 4331. (a) Any person who is neither a pharmacist nor  
2 an exemptee and who takes charge of a home medical  
3 equipment services provider, wholesaler, or veterinary  
4 food-animal drug retailer or who dispenses a prescription  
5 or furnishes dangerous devices except as otherwise  
6 provided in this chapter is guilty of a misdemeanor.

7 (b) Any person who has obtained a license to conduct  
8 a home medical equipment services provider and who  
9 fails to place in charge of that home medical equipment  
10 services provider a pharmacist or exemptee, or any  
11 person who, by himself or herself, or by any other person,  
12 permits the compounding or dispensing of prescriptions,  
13 except by a pharmacist or exemptee, or as otherwise  
14 provided in this chapter, is guilty of a misdemeanor.

15 (c) Any person who has obtained a license to conduct  
16 a veterinary food-animal drug retailer and who fails to  
17 place in charge of that veterinary food-animal drug  
18 retailer a pharmacist or exemptee, or any person who, by  
19 himself or herself, or by any other person, permits the  
20 dispensing of prescriptions, except by a pharmacist or  
21 exemptee, or as otherwise provided in this chapter, is  
22 guilty of a misdemeanor.

23 (d) Any person who has obtained a license to conduct  
24 a wholesaler and who fails to place in charge of that  
25 wholesaler a pharmacist or exemptee, or any person who,  
26 by himself or herself, or by any other person, permits the  
27 dispensing of prescriptions, except by a pharmacist or  
28 exemptee, or as otherwise provided in this chapter, is  
29 guilty of a misdemeanor.

30 SEC. 13. Section 4400 of the Business and Professions  
31 Code is amended to read:

32 4400. The amount of fees and penalties prescribed by  
33 this chapter, except as otherwise provided, is that fixed by  
34 the board according to the following schedule:

35 (a) (1) The fee for a nongovernmental pharmacy  
36 license shall be three hundred forty dollars (\$340) and  
37 may be increased to four hundred dollars (\$400).

38 (2) The fee for a home medical equipment services  
39 provider license shall not exceed the fee for a  
40 nongovernmental pharmacy license.



1 (b) The fee for a nongovernmental pharmacy or  
2 medical device retailer annual renewal shall be one  
3 hundred seventy-five dollars (\$175) and may be  
4 increased to two hundred fifty dollars (\$250).

5 (c) The fee for processing remodeling plans and  
6 inspecting a remodeled pharmacy shall be one hundred  
7 thirty dollars (\$130) and may be increased to one  
8 hundred seventy-five dollars (\$175).

9 (d) The fee for the pharmacist examination shall be  
10 one hundred fifty-five dollars (\$155) and may be  
11 increased to one hundred eighty-five dollars (\$185).

12 (e) The fee for regrading an examination shall be  
13 seventy-five dollars (\$75) and may be increased to  
14 eighty-five dollars (\$85). If an error in grading is found  
15 and the applicant passes the examination, the regrading  
16 fee shall be refunded.

17 (f) The fee for a pharmacist license and biennial  
18 renewal shall be one hundred fifteen dollars (\$115) and  
19 may be increased to one hundred fifty dollars (\$150).

20 (g) The fee for a wholesaler license and annual  
21 renewal shall be five hundred fifty dollars (\$550) and may  
22 be increased to six hundred dollars (\$600).

23 (h) The fee for a hypodermic license and renewal shall  
24 be ninety dollars (\$90) and may be increased to one  
25 hundred twenty-five dollars (\$125).

26 (i) The fee for examination and investigation for an  
27 exemptee license under Sections 4053 and 4054 shall be  
28 seventy-five dollars (\$75) and may be increased to one  
29 hundred dollars (\$100), except for a veterinary  
30 food-animal drug retailer exemptee, for whom the fee  
31 shall be one hundred dollars (\$100).

32 (j) The fee for an exemptee license and annual  
33 renewal under Sections 4053 and 4054 shall be one  
34 hundred ten dollars (\$110) and may be increased to one  
35 hundred fifty dollars (\$150), except that the fee for the  
36 issuance of a veterinary food-animal drug retailer  
37 exemptee license shall be one hundred fifty dollars  
38 (\$150), for renewal one hundred ten dollars (\$110),  
39 which may be increased to one hundred fifty dollars  
40 (\$150), and for filing a late renewal fifty-five dollars (\$55).



1 (k) The fee for an out-of-state drug distributor's  
2 license and annual renewal issued pursuant to Section  
3 4120 shall be five hundred fifty dollars (\$550) and may be  
4 increased to six hundred dollars (\$600).

5 (l) The fee for registration and annual renewal of  
6 providers of continuing education shall be one hundred  
7 dollars (\$100) and may be increased to one hundred  
8 thirty dollars (\$130).

9 (m) The fee for evaluation of continuing education  
10 courses for accreditation shall be set by the board at an  
11 amount not to exceed forty dollars (\$40) per course hour.

12 (n) The fee for evaluation of applications submitted by  
13 graduates of foreign colleges of pharmacy or colleges of  
14 pharmacy not recognized by the board shall be one  
15 hundred sixty-five dollars (\$165) and may be increased to  
16 one hundred seventy-five dollars (\$175).

17 (o) The fee for an intern license or extension shall be  
18 sixty-five dollars (\$65) and may be increased to  
19 seventy-five dollars (\$75). The fee for transfer of intern  
20 hours or verification of licensure to another state shall be  
21 fixed by the board not to exceed twenty dollars (\$20).

22 (p) The board may, by regulation, provide for the  
23 waiver or refund of the additional fee for the issuance of  
24 a certificate where the certificate is issued less than 45  
25 days before the next succeeding regular renewal date.

26 (q) The fee for the reissuance of any license, or  
27 renewal thereof, that has been lost or destroyed or  
28 reissued due to a name change is thirty dollars (\$30).

29 (r) The fee for the reissuance of any license, or  
30 renewal thereof, that must be reissued because of a  
31 change in the information, is sixty dollars (\$60) and may  
32 be increased to one hundred dollars (\$100).

33 (s) It is the intent of the Legislature that, in setting fees  
34 pursuant to this section, the board shall seek to maintain  
35 a reserve in the Pharmacy Board Contingent Fund equal  
36 to approximately one year's operating expenditures.

37 (t) The fee for any applicant for a clinic permit is three  
38 hundred forty dollars (\$340) and may be increased to four  
39 hundred dollars (\$400) for each permit. The annual fee  
40 for renewal of the permit is one hundred seventy-five

1 dollars (\$175) and may be increased to two hundred fifty  
2 dollars (\$250) for each permit.

3 (u) The board shall charge a fee for the processing and  
4 issuance of a registration to a pharmacy technician and a  
5 separate fee for the biennial renewal of the registration.  
6 The registration fee shall be twenty-five dollars (\$25) and  
7 may be increased to fifty dollars (\$50). The biennial  
8 renewal fee shall be twenty-five dollars (\$25) and may be  
9 increased to fifty dollars (\$50).

10 (v) The fee for a veterinary food-animal drug retailer  
11 license shall be four hundred dollars (\$400). The annual  
12 renewal fee for a veterinary food-animal drug retailer  
13 shall be two hundred fifty dollars (\$250).

14 (w) The fee for issuance of a retired license pursuant  
15 to Section 4200.5 shall be thirty dollars (\$30).

16 SEC. 14. Section 19051 of the Business and Professions  
17 Code is amended to read:

18 19051. Every upholstered-furniture retailer, unless he  
19 or she holds an importer's license, a furniture and  
20 bedding manufacturer's license, a wholesale furniture  
21 and bedding dealer's license, a custom upholsterer's  
22 license, or a retail furniture and bedding dealer's license  
23 shall hold a retail furniture dealer's license.

24 (a) This section does not apply to a person whose sole  
25 business is designing and specifying for interior spaces,  
26 and who purchases specific amenable upholstered  
27 furniture items on behalf of a client, provided that the  
28 furniture is purchased from an appropriately licensed  
29 importer, wholesaler, or retailer. This section does not  
30 apply to a person who sells "used" and "antique"  
31 furniture as defined in Sections 19008.1 and 19008.2.

32 (b) This section does not apply to a person who is  
33 licensed as a home medical equipment services provider  
34 by the California State Board of Pharmacy, provided that  
35 the furniture is purchased from an appropriately licensed  
36 importer, wholesaler, or retailer.

37 SEC. 15. Section 19055 of the Business and Professions  
38 Code is amended to read:

39 19055. Every bedding retailer, unless he or she holds  
40 an importer's license, an upholstered-furniture and

1 bedding manufacturer's license, a wholesale  
2 upholstered-furniture and bedding dealer's license, or a  
3 retail furniture and bedding dealer's license, shall hold a  
4 retail bedding dealer's license.

5 (a) This section does not apply to a person whose sole  
6 business is designing and specifying for interior spaces,  
7 and who purchases specific amenable bedding items on  
8 behalf of a client, provided that the bedding is purchased  
9 from an appropriately licensed importer, wholesaler, or  
10 retailer.

11 (b) This section does not apply to a person who is  
12 licensed as a home medical equipment services provider  
13 by the California State Board of Pharmacy, provided that  
14 the bedding is purchased from an appropriately licensed  
15 importer, wholesaler, or retailer.

16 SEC. 16. Section 19059.5 of the Business and  
17 Professions Code is amended to read:

18 19059.5. Every sanitizer shall hold a sanitizer's license  
19 unless he or she is licensed as a home medical equipment  
20 services provider by the California State Board of  
21 Pharmacy.

22 SEC. 17. (a) Any entity that holds a current, valid  
23 license as a medical device retailer on January 1, 2001,  
24 shall be deemed to be a licensed home medical  
25 equipment services provider until January 1, 2002, or  
26 until the renewal date of the license, whichever occurs  
27 first, provided the entity is in compliance with all  
28 applicable criteria for obtaining a license as a home  
29 medical equipment services provider.

30 (b) Any entity that was not required to obtain a license  
31 as a medical device retailer in order to provide  
32 equipment or services prior to January 1, 2001, and that  
33 is required to obtain a license as a home medical  
34 equipment services provider pursuant to this act, shall  
35 apply for a license as a home medical equipment services  
36 provider by July 1, 2001; however, the requirement for  
37 licensure shall only apply to those entities on and after  
38 January 1, 2002.

39 SEC. 18. No reimbursement is required by this act  
40 pursuant to Section 6 of Article XIII B of the California

1 Constitution because the only costs that may be incurred  
2 by a local agency or school district will be incurred  
3 because this act creates a new crime or infraction,  
4 eliminates a crime or infraction, or changes the penalty  
5 for a crime or infraction, within the meaning of Section  
6 17556 of the Government Code, or changes the definition  
7 of a crime within the meaning of Section 6 of Article  
8 XIII B of the California Constitution.

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